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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/091,882

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EXAMINER

MAGUIRE, LINDSAY M

ART UNIT

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3693

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/091,882	<b>Applicant(s)</b> SINGHAL, TARA CHAND	
	<b>Examiner</b> LINDSAY M. MAGUIRE	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Final Office action is in response to the application filed on March 6, 2002, the amendments filed on July 9, 2007, the Request for Continued Examination filed on December 6, 2007, the amendments filed on April 25, 2008, the Request for Continued Examination filed on October 27, 2008, the amendments filed on February 20, 2009, the Appeal Brief filed on July 30, 2009, and the amendments filed March 2, 2010.

### ***Claim Objections***

Claim 18 is objected to because of the following informalities: the claim recites step "(iv)" twice. In the interest of compact prosecution the second "(iv)" will be treated as if it were --(v)--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 18, 20, and 30 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the recitation, "a central computer system that is independent from the merchant system" is not found within the

specification. Further the Figure 3 does not support this recitation, as cited by applicant, since there is no clear showing that the central computer system (10) is actually independent from the merchant system.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,473,739 (Showghi et al. '739) in view of U.S. Pat. No. 5,933,812 (Meyer et al. '812).

**Re Claim 18:** Showghi et al. '739 disclose a payment system for restaurant merchants that provides privacy of customer bankcard data of a customer from a merchant system, comprising: a restaurant bill that shows a payment amount and a service code, the service code includes a merchant number identification to a central computer system that is independent from the merchant system (column 2, lines 56-67; column 5, lines 17-22; column 6, line 27 - column 7, line 8); a wireless device of the customer (22, 24, 26: Figure 2), (i) is entered a data of the service code, a payment amount (column 5, lines 17-22 & column 7, lines 43-55), and (ii) the device wirelessly sends the data to the central computer system which pre-stores customer data and

merchant data (i.e. wireless; Figure 2); central computer system has a processor (i) that identifies (16, 18) the customer (ii) processes a payment request from the customer to the merchant by retrieving customer and merchant data and submits a payment transaction request to an existing payment authorization network (column 7, lines 43-55); (iii) receives a payment approval record from the payment authorization network (iv) wirelessly send a payment approval notification to the customer on the wireless device (column 7, lines 43-55, i.e. acknowledges receipt of goods, acknowledges that the payment is going through); (v) sends the payment approval notification to the merchant system, wherein the central computer system in lieu of the merchant system having submitted the payment transaction request (column 2, lines 56-67), the payment system maintains privacy of customer bankcard data from the merchant system (column 7, lines 43-55; column 5, lines 32-38, i.e. through the internet service provider).

It is noted that the definition of restaurant according to Webster's II Dictionary is, "a place for serving meals to the public." Therefore, Showghi et al. '739 is considered to fully meet the limitation of "restaurant" as recited above, since it is clearly disclosed that meals/food are served to the public (Showghi et al. '739: abstract).

Showghi et al. '739 is considered to disclose the system substantially as claimed, as advanced above, with the exception of requiring the ability to enter an optional tip into the device. Meyer et al. '812 disclose a display that prompts a guest to enter a tip

including a pair of function keys for selecting tip entry in the form of a % of the guest check total or a specific tip amount (Meyer et al. '812: column 3, lines 56-60).

**Re Claim 19:** Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including further comprising: the central computer system stores (i) customer identification data that can identify a customer, (ii) a plurality of customer bank account data and (iii) wireless device notification data that can notify a customer on the wireless device (Showghi et al. '739: column 7, lines 43-47).

**Re Claim 20:** Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including further comprising: the customer identification data includes use of a personal number that is a combination of wireless device telephone number and a personal identification number that is entered into the wireless device (Showghi et al. '739: if the person is using therein own wireless device, i.e. 22, 24, 25, then their phone number is obviously contained within their personal number).

**Re Claim 21:** Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including further comprising: the central computer system stores merchant identification data that identifies the merchant to a payment authorization network and merchant computer system notification data that notifies a merchant using the merchant computer system (Showghi et al. '739: column 5, lines 29-32; column 7, lines 43-55).

**Re Claim 22:** Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including where the service code, further comprising: the service code includes in addition to the merchant number identification (Showghi et al. '739: i.e. venue code), a table number (Showghi et al. '739: i.e. seat number) and a server number (Showghi et al. '739: i.e. delivery person).

**Re Claim 23:** Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including further comprising: the payment approval notification to the merchant system includes the table number and the server number enabling a display terminal interfaced to the merchant system to display payment status data that includes a date and time (Showghi et al. '739: column 5, lines 17-22), a transaction reference (Showghi et al. '739: column 2, lines 56-67), the table number (Showghi et al. '739: i.e. seat number), the server number (Showghi et al. '739: i.e. delivery person), the payment amount (Showghi et al. '739: column 2, lines 56-67), tip (Meyer et al. '812: column 3, lines 56-60) and a payment status (Showghi et al. '739: column 4, lines 20-24; column 7, lines 43-55).

**Re Claims 24-29:** Method claims 24-29 are substantially similar to previously rejected system claims 18-23, and therefore the same rejections are applied here using the same art and rationale.

**Re Claims 30-32:** Method claims 30-32 are substantially similar to previously rejected system claims 18, 22, and 23, and therefore the same rejections are applied here using the same art and rationale.

### ***Response to Arguments***

Applicant's arguments filed March 2, 2010 have been fully considered but they are not persuasive.

Applicant's arguments that neither Showghi or Meyers disclose an independent central computer system, a restaurant bill with a service code with merchant identification to the central computer system the central computer system processing a payment transaction in lieu of the merchant system, and sending payment approval notification through the central system wirelessly to the customer's wireless device, are acknowledged, however the examiner is of another opinion. Specifically, Showghi et al. '739 discloses all of these elements in at least the following citations: an independent central computer system (column 2, lines 56-67; column 5, lines 32-38), a restaurant bill with a service code with merchant identification to the central computer system (column 6, line 27 – column 7, line 8), the central computer system processing a payment transaction in lieu of the merchant system (column 5, line 32-38), and sending payment approval notification through the central system wirelessly to the customer's wireless device (Figure 2, column 7, lines 43-55, e.g. acknowledges receipt of the goods,



acknowledges that the payment is going through). Therefore, Showghi et al. '739 is considered to fully meet the aforementioned recitations of the claims.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant contends that Showghi is directed to connivance and not to protection, however examiner maintains the position that while Showghi doesn't explicitly intend to function as consumer protection, that does not mean that it does not provide those functions. Showghi prevents a merchant from handling the consumer's credit/debit card and therefore performs the same functions as applicant's invention.

Applicant's arguments that Showghi does not show a central system, are acknowledged, however examiner is of another opinion. Specifically, Showghi et al. '739 discloses a central computer processing center (column 3, lines 25-27). Therefore, Showghi et al. '739 is considered to fully meet the aforementioned limitations of the claims.

Applicant's arguments that, "the Showghi identification code is inherently different than the service code of the claims 18, 24, and 30" are acknowledged, however examiner is of another opinion. Specifically, the service code of Showghi et al. '739 does identify the merchant to the central system (Figure 2; column 2, lines 56-67; column 5, lines 17-22; column 6, line 27-column 7, line 8). Therefore, Showghi et al. '739 is considered to fully meet the aforementioned limitations of the claims.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., securing customer identity bankcard data from merchants themselves) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to re t whose telephone number is (571)272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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